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Supreme Court, U.S.
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In The

SUPREME COURT

of the

UNITED STATES
October Term, 1997

FEDERATION OF CONNECTICUT TAXPAYER ORGANIZATIONS, ET AL.,

Petitioners

versus

CHRISTOPHER BURNHAM, ET AL.,

Respondents

PETITIONERS' REPLY TO RESPONDENT'S OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

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OCTOBER TERM, 1997

FEDERATION OF CONNECTICUT TAXPAYER ORGANIZATIONS, ET AL.,

Petitioners

v.

CHRISTOPHER BURNHAM, ET AL.

Respondents

ON PETITIONFOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITIONERS' REPLY TO RESPONDENTS' OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

PETITIONERS REPLY TO RESPONDENTS' OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

The Federation of Connecticut Taxpayer Organizations, et al., (hereinafter the Taxpayers), respectfully file this Reply solely to correct two misstatements of the proceedings below contained in the Respondents' Opposition to Petition for Writ of Certiorari.

The first misstatement occurs at page 4 of the Respondents Opposition where the Respondents state, "On February 6, 1996, the Connecticut Supreme Court affirmed the Superior Court's dismissal of that case, holding that Art. III, Sec. 18(b) was nonself-executing, had not been executed and the question presented was nonjusticiable". The precise ruling of the Connecticut Supreme Court which appears at the end of the first paragraph of the opinion is stated by that court as follows, "The trial court, concluding that the claim presented by the plaintiffs is nonjusticiable, dismissed the plaintiffs' complaint for lack of subject matter jurisdiction ... We affirm the judgment of the trial court." *Nielsen v. State,* 236 Conn. 1, 3; 670 A.2d 1288, 1289-1290 (1996). Contrary to the representation of the Respondents, the words self-executing and/or nonself-executing do not appear anywhere in the

opinion – not in the text and not in the footnotes – although that issue was clearly before the court. The issue was nonjusticiable and the Connecticut Supreme Court did not discuss it.

The second misstatement occurs in footnote 1 at page 6 where the Respondents represent that, "The Federation is somehow of the opinion the Connecticut Supreme Court's statement in *Nielsen* are "dictum"." That is not the Taxpayers' opinion. The Taxpayers maintain that the *Nielsen* decision is void on any issue except the court's lack of subject matter jurisdiction. The Taxpayers' position is based upon the holding of the Second Circuit, which was affirmed by this Court, in *Spatt v. State of New York*, 361 F. Supp. 1048 (E.D.N.Y.)(three judge court), *affirmed*, 414 U.S. 1058, 94 S.Ct. 563, 38 L.Ed.2d 465 (1973).

CONCLUSION

This Honorable Court should grant the Writ of Certiorari and resolve the issues raised therein which are of imperative public importance.

Respectfully submitted,

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